sas erroneously held that said act of the Legislature did not violate any of the provisions of the Constitution of the State of Arkansas, but whether or not the Supreme Court was correct in its holding is not a question that can be reviewed by this Court as the question presented was a question of local law over which this Court has no jurisdiction. This Court will accept as controlling a decision of the State Courts on questions of local law, both statutory and common.

This Court in the case of the *First National Bank of Garnett* v. *Ayers,* 160 U. S. 660, 40 L. Ed. 573, said:

> "We are asked to go into the proper construction of the state statute and its validity under the state constitution. But these are questions of local law, the decision of which by the Supreme Court of the state is controlling."

Again, this Court in the case of *Carstairs* v. *Cochran,* 193 U. S. 10, 48 L. Ed. 596, said:

> "The question whether or not a state statute conflicts with the constitution of the state is settled by the decision of its highest court."

Again, this Court in the case of *Smith* v. *Jennings,* 206 U. S. 276, 51 L. Ed. 1061, said:

> "The conformity with the state constitution of the proceedings of the state legislature in the enactment of a law is not a federal question which will sustain a writ of error, but is a question upon which the determination of the state court is final."

This Court again in the case of *Tampa Water Works Co.* v. *Tampa,* 199 U. S. 241, 50 L. Ed. 170, said:

"The federal Supreme Court has no power to review a decision of a state court which puts upon a state statute a construction which removes every question of constitutionality from it 'and seems to us reasonable even if a somewhat different one could be conceived.' "

From the decisions here cited and many others which might be cited in support thereof, it is shown that this Court has no jurisdiction insofar as the complaint made by petitioners that either of the Acts complained of violate the Constitution of the State of Arkansas, and, accordingly, the petition will be denied.

PART II

Constitutionality of Act 391 of the General Assembly of the State of Arkansas for the Year 1941

Petitioners next complain of Act 391 of the Acts of the General Assembly of the State of Arkansas for the year of 1941, which Act is known as the "Employment Security Act" and superseded Act 155 of the Acts of 1937 and Act 200 of the Acts of 1939 of the General Assembly of the State of Arkansas, which the Supreme Court of Arkansas in its opinion (r. 16) stated that an attack upon Act 391 would have been equally applicable to the question of the validity of the prior Acts.

The question of the validity of Act 155 of the Acts of 1937 was in question in this Court in the case of *Buckstaff Bath House Company* v. *Ed I. McKinley*, 308 U. S. 358, 84 L. Ed. 322. This Court affirmed the decision of the Supreme Court of Arkansas upholding the validity of the Act in question.

Again, this Court in the case of *Carmichael* v. *Southern Cole & Coke Company*, 301 U. S. 495, 81 L. Ed. 1245, had before it the question of the validity of the Unemployment Compensation Act of the State of Alabama and whether or not said Act infringed the due process and equal protection clauses of the Fourteenth Amendment. In this case every question was raised questioning the constitutionality of the Alabama Act (which is insofar as the questions raised here identical with the Arkansas Employment Security Act), and in this case the Court upheld the validity of the Alabama Act and decided every meritorious question raised by petitioners here adversely to the petitioners. The *syllabi* of said case follows:

> "2. A state statute which imposes upon employers the obligation to pay a certain percentage of their monthly payrolls into the state unemployment compensation fund is an exercise of the taxing power of the state.
>
> "3. Taxes, which are but the means of distributing the burden of the cost of government, are commonly levied on property or its use, but may likewise be laid on the exercise of personal rights and privileges.
>
> "4. Freedom to select subjects of taxation and to grant exemptions is inherent in the exercise of the power to tax.
>
> "5. Neither due process nor equal protection imposes upon a state any rigid rule of equality of taxation, and inequalities which result from the singling out of one particular class for taxation or exemption infringe no constitutional limitation.
>
> "6. The legislature is not bound to tax every member of a class or none, but may make distinctions of degree having a rational basis.

"7. Exemptions from the operation of a tax must be presumed to rest on a rational basis if there is any conceivable state of facts which would support it.

"9. Administrative convenience and expense in the collection or measurement of a tax may constitute a valid basis for exemption therefrom.

"11. Where the public interest is served, one business may be left untaxed and another taxed in order to promote the one, or to restrict or suppress the other.

"15. While, since the adoption of the Fourteenth Amendment, state taxing power can be asserted only to effect a public purpose and does not embrace the raising of revenue for private purposes, the requirements of due process leave free scope for the exercise of a wide legislative discretion in determining what expenditures will serve the public interest.

"16. The public purpose of a state for which it may raise funds by taxation embrace expenditures for its general welfare.

"17. Whether an expenditure of public money serves a public purpose is a practical question addressed to the lawmaking department and a plain case of departure from every public purpose which can reasonably be conceived is required to justify the intervention of a court.

"19. If the purpose of an expenditure of public money is legitimate because public, it will not be defeated because the execution of it involves payments to individuals.

"21. The restriction of the benefits of an unemployment compensation law to the employees of those subject to the tax imposed by the law, which is exacted only from the employers of eight or more persons for 20 or more weeks in the year, other than those who employ agricultural laborers, domestic servants, seamen, insur-

ance agents or close relatives, and charitable institutions interstate railways, and the government of the United States or of any state or political subdivision, is not so arbitrary and discriminatory as to infringe the Fourteenth Amendment and deprive the statute of any public purpose.

"22. In establishing a system of unemployment benefits, the legislature is not bound to occupy the whole field, but may strike at the evils of unemployment where they are most felt, or where it is most practicable to deal with them, and may exclude persons whose need is less or whose effective aid is attended by inconvenience which is greater."

Therefore, in the light of these decisions of this Court, the allegations made by petitioners here do not present a substantial federal question and the petition should be denied.

This Court in the case of *Leonard* v. *Vicksburg R. Co.*, 198 U. S. 416, 49 L. Ed. 1108, said:

"A federal question may have been so explicitly foreclosed by prior decisions as to afford no basis for a writ of error."

In the case of *Boston* v. *Jackson*, 260 U. S. 309, 67 L. Ed. 274, this Court said:

"A judgment will be affirmed on motion when, in view of previous decisions, the questions presented by the plaintiff in error are so wanting in substance as not to need further argument."

This Court in the case of *Tidal Oil Co.* v. *Flanagan*, 263 U. S. 444, 68 L. Ed. 382, said:

"The mere fact that a state supreme court decides a party's claim of property or contract right by revers-

ing its earlier decision of the law applicable to such cases, does not deprive him of his property without due process of law, contrary to the Fourteenth Amendment, nor amount to the passing of 'any law' impairing the obligation of contracts, contrary to the contract clause of the Constitution. This has been so often adjudged by the Supreme Court that contentions to the contrary are without substance and a writ of error dependent on them must be dismissed for lack of jurisdiction."

Again, this Court in the case of *Equitable Life Assur. Soc.* v. *Brown,* 187 U. S. 308, 47 L. Ed. 190, said:

"A writ of error will be dismissed where the subject-matter of the controversy is not inherently federal, and the only federal question raised has been so explicitly decided by the United States Supreme Court in accordance with the ruling of the lower Court as to preclude further argument on the subject."

Again, this Court in the case of *King* v. *West Virginia,* 216 U. S. 92, 54 L. Ed. 396, said:

"Contention that the Fourteenth Amendment is violated by Const. W. Va. Art. 13 and Code, ch. 105, for the forfeiture to the state of lands not listed by the owner for taxation for five successive years, with liberty to the owner to intervene and redeem, having been decided adversely in a prior decision of the Federal Supreme Court, affords no basis for a writ of error."

Following the rule laid down in the above cases, this Court denied petitions for certiorari wherein the petitions raised the same question of constitutionality of state unemployment compensation acts, which acts, for all practical purposes, are the same as the act here in question in the following cases:

Howes Brothers Company v. *Massachusetts Unemployment Compensation Commission, et al.*—Petition for Writ of Certiorari to the Supreme Judicial Court, County of Suffolk, Commonwealth of Massachusetts. Denied. 300 U. S. 658, 81 L. Ed. 867.

Beeland Wholesale Company, et al. v. *Harwell G. Davis, Individually, etc.*—Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Denied. 300 U. S. 681, 81 L. Ed. 884.

Alpha Portland Cement Company v. *Harwell G. Davis, Individually, etc.*—Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Denied. 300 U. S. 681, 81 L. Ed. 884.

CONCLUSION

Since it appears that the question raised as to the validity of the Act creating the Arkansas Department of Labor is one purely of local law and the interpretation placed thereon by the court of the State of Arkansas is final, this portion of petitioner's complaint does not raise any federal question over which this Court might take jurisdiction. The petition filed herein with reference thereto should be denied.

The question raised in which the petitioners complain that Act 391 of the General Assembly of Arkansas of 1941 violates the Fifth and Fourteenth Amendments to the Federal Constitution is likewise without merit in that said question was foreclosed by this Court in its decision in the cases above referred to, i.e., *Buckstaff Bath House Company* v. *Ed I. McKinley,* 308 U. S. 358, 84 L. Ed. 322, and *Carmichael* v. *Southern Coal & Coke Company,* 301 U. S. 495, 81 L. Ed. 1245, for in these cases every feature of such an Act as the Arkansas Employment Security Law contains was dis-

cussed by the Court and decided against the contention of the petitioners here.

Under the holding of this Court in the cases above quoted from, the questions raised in the petition for certiorari have been decided by this Court in prior cases, and said decisions are decisive of the case here; therefore, petition for certiorari will be denied.

The petitioners in their petition and complaint fail to show any reason why they are aggrieved or could be aggrieved by any of the provisions of Act 391 of the Acts of the General Assembly of 1941. They fail to allege or show that by reason of any of the provisions of said Act, except the payment of the tax, they would be deprived of any rights by reason of the passage of said statute. The exaction of the tax and the procedure for the exaction of the tax only could affect either of the petitioners and, in this connection, in their petition for review they concede the right of the Legislature to impose and collect the tax laid under the Arkansas Employment Security Act. In Paragraph 19, on Page 3, of the petition filed herein, we find this statement made by petitioners: "That petitioners are aware of the decisions of this Court, bow thereto, and do not question the authority of the General Assembly of the State of Arkansas to pass a law imposing a tax to create a fund out of which to pay benefits to employees who are out of employment." Therefore, it appears that instead of challenging the validity of that portion of the Act that affects them, they concede its validity thereby waiving the question and causes the question presented here to become, be, and remain frivolous (See case of *Liberty Warehouse Co.* v. *Burley Tobacco Growers Cooperative Marketing Association,* 72 L. Ed. 473, to this effect). Said petition should, therefore, be denied.

We, respectfully, submit that petition for certiorari filed herein should be denied.

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